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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/491,467	01/26/2000	Yoshifumi Sakamoto	13178(JA998-139)	8561
7590	08/09/2005		EXAMINER	
Richard L Catania Scully Scott Murphy & Presser 400 Garden City Plaza Garden City, NY 11530				MA, JOHNNY
				ART UNIT
				PAPER NUMBER
				2617

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/491,467	SAKAMOTO ET AL.
	Examiner	Art Unit
	Johnny Ma	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,5-8 and 13-16 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,5-8 and 13-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/13/2005 have been fully considered but they are not persuasive.

Applicant argues "that none of the publications cite or suggest a structure which will facilitate the basic concept of the present invention, which comprises that EPG information is received from a digital broadcast receiver, and wherein a program is selected, which is predicated or based on the EPG data information, which has been received from the digital broadcast receiver." The examiner respectfully disagrees. The claimed digital broadcast receiver is met by the Darbee et al. and Donnelly combination as discussed in the previous rejections where it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Darbee et al. reference set-top box with the Donnelly transmission of programming guide information in a digital signal broadcast for the purpose of providing using a transmission protocol that is capable of broadcasting a greater amount of programming to a viewer, such a combination results in a set top box that receives digital signal broadcasts and thus meets the digital broadcast receiver as claimed. Furthermore, the claimed "wherein the EPG data received from said digital broadcast receiver facilitates selection of a program based upon the EPG data information which has been received" is also met by the Darbee et al. and Donnelly combination. As noted above, the combination teaches the use of a digital broadcast receiver wherein EPG data is received from the receiver (Darbee 7:6-30; 8:20-23; 8:44-52) as cited in the previous Office Action. The received EPG data "facilitates selection of a program based upon the EPG data information which has been received" wherein "[i]t will

also be appreciated that, by depressing the EZ NAV key, it is possible to effect channel selections. For example, if a program depicted on the display 14 of the remote control unit 10 is highlighted, one need only depress the EZ NAV key 20 to select that channel for viewing on an associated television set (not shown)...” (Darbee 11:5-11).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 5, 7-8, 13, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al. (US 6,130,726), previously cited, and Donnelly (US 6,460,181 B1), previously cited.

As to claim 1, note the Darbee et al. reference discloses a program guide on a remote control display. The claimed receiver having an infrared receiving and transmitting means for transmitting electronic program guide (EPG) data is met by program guide information transmitted to remote control via an IR or RF communication link to an associated set-top box (8:44-52) wherein an infrared receiving/transmitting means for receiver is inherent to the device in order to facilitate communications with the corresponding remote control infrared receiving/transmitting circuits (7:6-30; 8:47-56).

The claimed EPG data contained in a received broadcast data is met by program guide and advertising data signal may be combined with television channel signals on a coaxial cable to form a composite signal where the composite signal may be broadcast by a content provider,

such as a cable company or satellite network, and delivered to a set-top box (8:58-66). The claimed a program display and selecting apparatus remote from said receiver having a receiving means comprising an infrared receiver and transmitter unit is met by remote control unit 10 comprises IR transmitting and receiving circuits (7:6-30).

The claimed for receiving the EPG data transmitted from said infrared receiving and transmitting means of said receiver is met by program guide information transmitted to remote control via an IR or RF communication link to an associated set-top box (8:44-52). The claimed “said program display and selecting apparatus comprising a displaying means for concurrently displaying the received EPG data” is met by remote control unit having a graphic display for depicting program scheduling and/or advertising information without causing an interruption in content that is being depicted on an associated television monitor (2:45-50). The claimed said broadcast receiver periodically transmitting EPG data is met by the rolling over of guide information at 4:00 am each day (Darbee et al. 8:20-23). Further note the Darbee et al. reference also discloses that it may be desirable to transmit blocks of program guide data to the remote control unit over additional intervals or, possibly, at random times (9:14-16), which satisfies the claimed periodic transmission of EPG data. The claimed “said program display and selecting apparatus comprises an operation means for operating said digital broadcast receiver” is met by the Darbee et al. reference disclosing a program executed by the microprocessor enables the remote control unit to perform conventional operations including, for example, ON, OFF, Volume up or Down and Channel Up or Down functions (7:43-49), which satisfies the claimed operation means for operating said digital broadcast receiver. Note, it is understood that the remote control disclosed

in the Darbee et al. reference has a communication link to the set-top box (8:50-52) and thus remote control commands are directed toward the operation of said set-top box.

The claimed "wherein the EPG data received from said digital broadcast receiver facilitates selection of a program based upon the EPG data information which has been received" is met by "[i]t will also be appreciated that , by depressing the EZ NAV key, it is possible to effect channel selections. For example, if a program depicted on the display 14 of the remote control unit 10 is highlighted, one need only depress the EZ NAV key 20 to select that channel for viewing on an associated television set (not shown)... " (Darbee 11:5-11).

Note the Darbee et al. reference discloses cable, satellite, or broadcast television signals as data sources for remote control data information (Darbee 4:19-33). However, the Darbee et al. reference does not specifically disclose a digital broadcast receiving set-top box transmitting electronic program guide data in a received digital broadcast data, this is not considered a patentable distinction. Now note the Donnelly reference which discloses the transmission of program guide information in a digital signal (Donnelly 3:40-45) where transmission of television signals with programming guide information in an analog or digital signal is well known (Donnelly 3:11-16). Therefore the examiner submits that it would have been clearly obvious to one of ordinary skill in the art at the time the invention was made to modify the Darbee et al. reference set-top box with the Donnelly transmission of programming guide information in a digital signal broadcast for the purpose of providing using a transmission protocol that is capable of broadcasting a greater amount of programming to a viewer.

As to claim 5, wherein said program display and selecting apparatus comprises a transmitting means for transmitting operation information inputted into said operation means to

said digital broadcast receiver; and said digital receiver comprises a receiving means for receiving the operational information transmitted from said program display and selecting apparatus. The Darbee et al. reference discloses a communication link between a remote control unit and an associated set-top box (8:50-52). The Darbee et al. reference also discloses a remote control unit including IR transmitting and receiving circuits (7:10). The Darbee et al. reference does not specifically disclose a receiver comprising a receiving means for receiving the operation information transmitted from said program display and selecting apparatus but it is nonetheless inherent in the device for the purpose of establish a communication link between a remote control and set-top box.

As to claim 7, wherein said operation means selects a program to be monitored. The Darbee et al. reference discloses that if a program depicted on the display 14 of the remote control unit 10 is highlighted, one need only depress the EZ NAV key 20 to select that channel for viewing on an associated television set (11:8-11, also see Figure 1 and 8), which satisfies the claimed operation means selects a program to be monitored.

As to claim 8, note the Darbee et al. reference discloses a program guide on a remote control display. The claimed broadcast receiver comprising a transmitting means for transmitting EPG (electronic program guide) data is met by program guide information transmitted to remote control via an IR or RF communication link to an associated set-top box (8:44-52). The claimed data contained in a received broadcast data is met by program guide and advertising data signal may be combined with television channel signals on a coaxial cable to form a composite signal where the composite signal may be broadcast by a content provider, such as a cable company or satellite network, and delivered to a set-top box (8:58-66). The

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claimed "a program display and selecting apparatus remote from said digital broadcast receiver" is met by remote control unit 10 (Darbee 7:6-26). The claimed a receiving means for receiving EPG data transmitted from the broadcast receiver is met by remote control unit includes an IR or RF transmitting and receiving circuits (7:10,18-21). The claimed "said program display and selecting apparatus comprising a display means for concurrently displaying said received EPG data" is met by remote control unit having a graphic display for depicting program scheduling and/or advertising information without causing an interruption in content that is being depicted on an associated television monitor (2:45-50).

The claimed "wherein the EPG data received from said digital broadcast receiver facilitates selection of a program based upon the received EPG data information" is met by "[i]t will also be appreciated that , by depressing the EZ NAV key, it is possible to effect channel selections. For example, if a program depicted on the display 14 of the remote control unit 10 is highlighted, one need only depress the EZ NAV key 20 to select that channel for viewing on an associated television set (not shown)... " (Darbee 11:5-11).

Note the Darbee et al. reference discloses cable, satellite, or broadcast television signals as data sources for remote control data information (Darbee 4:19-33). However, the Darbee et al. reference does not specifically disclose a digital broadcast receiving set-top box transmitting electronic program guide data in a received digital broadcast data, this is not considered a patentable distinction. Now note the Donnelly reference which discloses the transmission of program guide information in a digital signal (Donnelly 3:40-45) where transmission of television signals with programming guide information in an analog or digital signal is well known (Donnelly 3:11-16). Therefore the examiner submits that it would have been clearly

obvious to one of ordinary skill in the art at the time the invention was made to modify the Darbee et al. reference set-top box with the Donnelly transmission of programming guide information in a digital signal broadcast for the purpose of providing using a transmission protocol that is capable of broadcasting a greater amount of programming to a viewer.

As to claim 13, the claimed "comprises operation means communicating with a transmitting means for transmitting the operational information input to said digital broadcast receiver" is met by a communication link between a remote control unit and an associated set-top box (8:50-52), wherein a remote control unit including IR transmitting and receiving circuits (7:10), where it is understood operation information is transmitted via the IR communication means.

As to claim 15, the claimed "wherein said operation means selects a program to be monitored" is met by "...if a program depicted on the display 14 of the remote control unit 10 is highlighted, one need only depress the EZ NAV key 20 to select that channel for viewing on an associated television set" (Darbee et al. 11:5-11).

As to claim 16, the claimed "wherein said transmitting means transmits EPG data contained in a received digital broadcast data" is met by the Darbee et al. and Donnelly combination as discussed in the rejection of claim 8. The claimed "and said broadcast receiver includes a receiving means for receiving the operational information transmitted from the program display and selected apparatus" is met by "when the EZ NAV key 20 is depressed, channel selection macro data is provided to an associated set-top box (not shown) or television tuner circuit (not shown) wherein it is inherent that the set top box include a receiving means for the purpose of effectuating transmitted tuning commands.

3. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over previously cited references; Darbee et al. (US 6,130,726) in further view of Donnelly (US 6,460,181 B1) and Huang et al. (US 6,437,836).

As to claim 6, the Darbee et al. and Donnelly references discloses all the limitations of claim 4. However the Darbee et al. reference does not disclose wherein said operation means comprises a touch panel. The Huang et al. reference discloses operation means comprises a touch panel where an electronic program guide is seamlessly integrated with the remote: clicking on a program will allow one to immediately change to that program (Huang et al. 5:26-28, also see Figure 1A). Therefore, it would have been clearly obvious to one of ordinary skill in the art at the time the invention to modify the Darbee et al. remote control with the Huang et al. remote control system to provide specialized functionality and features by dynamically constructing the user's remote control buttons on a graphical touch screen (Huang et al. 4:23-27).

As to claim 14, the Darbee et al. and Donnelly references discloses all the limitations of claim 12. However the Darbee et al. reference does not disclose wherein said operation means comprises a touch panel. The Huang et al. reference discloses operation means comprises a touch panel where an electronic program guide is seamlessly integrated with the remote: clicking on a program will allow one to immediately change to that program (Huang et al. 5:26-28, also see Figure 1A). Therefore, it would have been clearly obvious to one of ordinary skill in the art at the time the invention to modify the Darbee et al. remote control with the Huang et al. remote control system to provide specialized functionality and features by dynamically constructing the user's remote control buttons on a graphical touch screen (Huang et al. 4:23-27).

Conclusion

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4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny Ma whose telephone number is (571) 272-7351. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jm



VIVEK SRIVASTAVA
PRIMARY EXAMINER